REMARKS

This application has been reviewed in light of the Office Action dated May 31, 2006. Claims 1-9, 15 and 18 remain in this application. Claims 1, 15 and 18 are in independent form. Claims 1-8, 15 and 18 have been amended to define still more clearly what Applicant regards as his invention. Favorable reconsideration is respectfully requested.

In the outstanding Office Action, Claims 1-9, 15 and 18 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly omitting essential elements of the invention.

Applicants do not believe that this rejection is well taken. With regard to rejections under Section 112, second paragraph, MPEP § 2172.01, cited in the Office Action, provides:

> "In addition, a claim *which fails to interrelate essential elements of the invention as defined by applicant(s) in the specification* may be rejected under 35 U.S.C. 112, second paragraph, for failure to point out and distinctly claim the invention. See *In re Venezia*, 530 F.2d 956, 189 USPQ 149 (CCPA 1976); *In re Collier*, 397 F.2d 1003, 158 USPQ 266 (CCPA 1968). But see *Ex parte Nolden*, 149 USPQ 378, 380 (Bd. Pat. App. 1965) ("[I]t is not essential to a patentable combination that there be interdependency between the elements of the claimed device or that all the elements operate concurrently toward the desired result"); *Ex parte Huber*, 148 USPQ 447, 448-49 (Bd. Pat. App. 1965) (A claim does not necessarily fail to comply with 35 U.S.C. 112, second paragraph where the various elements do not function simultaneously, are not directly functionally related, do not directly intercooperate, and/or serve independent purposes.). [emphasis added]" MPEP § 2172.01.

Applicant does not find any argument in the Office Action that the claimed elements are not properly interrelated by the claim language, and thus conclude that a rejection on this basis is unjustified.

In the same Section of the MPEP, however, the following appears:

"A claim which omits matter disclosed to be essential to the invention as described in the specification or in other statements of record may be rejected under 35 U.S.C. 112, *first paragraph*, as not enabling. *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). See also MPEP § 2164.08(c). Such essential matter may include missing elements, steps or necessary structural cooperative relationships of elements described by the applicant(s) as necessary to practice the invention. [emphasis added]" *Idem.*

The rejection in the outstanding Office Action does not address any of the requirements for a rejection under the first paragraph (particulary, making a showing that one of merely ordinary skill would not have been able to practice the invention that has been claimed, at least not without undue experimentation). The MPEP section cross-referenced above, however, appears to Applicants to be significant:

"A feature which is taught as critical in a specification and is not recited in the claims should result in a rejection of such claim under the enablement provision section of 35 U.S.C. 112. See *In re Mayhew*, 527 F.2d 1229, 1233, 188 USPQ 356, 358 (CCPA 1976). *In determining whether an unclaimed feature is critical, the entire disclosure must be considered. Features which are merely preferred are not to be considered critical. In re Goffe*, 542 F.2d 564, 567, 191 USPQ 429, 431 (CCPA 1976). Limiting an applicant to the preferred materials in the absence of limiting prior art would not serve the constitutional purpose of promoting the progress in the useful arts. Therefore, an enablement rejection based on the grounds that a disclosed critical limitation is missing from a claim should be made only when the language of the specification makes it clear that the limitation is critical for the invention to function as intended. *Broad language in the disclosure, including the abstract, omitting an allegedly critical feature, tends to rebut the argument of criticality.* [emphases added]" MPEP § 2164.08(c).

Applicants respectfully submit that the outstanding rejection, if acceded to, would have the effect of limiting Applicants in many if not all respects to their preferred embodiments; the foregoing provisions of the MPEP, however, are believed to make clear that the requirement that essential elements be recited, does not mean that all elements necessary

for the operability of the preferred embodiment, as disclosed, to appear in the independent claims. If such were the case, few if any patents would issue with any claims but picture claims. Applicants do not agree that the law contains any such requirement, and believe that their claims, as presented previously, comply fully with the requirements of Section 112, as relates to completeness.

Nonetheless, in an effort to eliminate this as an issue, the claims have been carefully reviewed and amended to ensure that they comply with the requirements of Section 112. First, Applicant has amended Claims 1, 15 and 18 to clarify further that the storage unit can store limitation information which was selectively transmitted from the external device, and that the control unit or step permits deletion of the display of the message on the display unit in response to the manual instruction by the operator in a case where the storage unit does not store the limitation information, and limits deletion of the display of the message on the display unit in response to the manual instruction by the operator in a case where the storage unit stores the limitation information. The new claim language is based on the application as filed, particularly at page 19, line 24, to page 20, line 4, and page 26, lines 5-9.[1]

These claims also have been amended to clarify references to "a message based on message data" and "displaying the message based on the message data". This language is based on the application as filed, particularly Figs. 14 and 15, in which the

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[1] It is of course to be understood that the claim scope is not limited by the details of this or any other portion of the disclosure that may be referred to.

illustrated messages are displayed based on the message data received from the external

device, and the corresponding portion of the specification.

Applicant also has amended Claim 2 to clarify the meaning of that claim; the

new language is supported in the application as filed at page 25, line 9, to page 26, line 9.

In addition, the language of Claim 4 has been clarified, on the basis of the

disclosure at page 23, line 8, to page 26, line 9, of the application as filed. More

specifically, the "first message data" corresponds to the message data which is

discriminated in the step S1205 of Fig. 12 as the message data for display of the pop-up

message (page 23, lines 24-27 in the originally filed specification), and the "second

message data" corresponds to the message data which is not discriminated as the message

data for display of the pop-up message (page 23, line 24, to page 24, line 4). It should be

noted that the pop-up message is the message to be displayed so as to exchange the

displayed content on the operation screen (see Fig. 15). If not, the message is displayed

partially on the operation screen (see Fig. 14).

In view of these further clarifications, withdrawal of the rejections under

Section 112 is respectfully requested.

In addition to the rejections under Section 112, Claims 1, 15 and 18 were

rejected under 35 U.S.C. § 102(e) as being anticipated by newly cited U.S. Patent

6,034,652 (Freiberger et al.). Also, Claims 2-4 were rejected under 35 U.S.C. § 103(a) as

being obvious from *Freiberger* in view of U.S. Patent 6,295,389 (Inui et al.), Claims 5-7,

as being obvious from *Freiberger* in view of U..S. Patent 6,219,708 (Martenson), and

Claims 8 and 9, as being obvious from *Freiberger* in view of U.S. Patent 6,185,603

(Henderson).

Independent Claim 1 is directed to a data processing apparatus that comprises an instruction input unit, arranged to input a manual instruction by the operator, and a process unit, arranged to execute a predetermined process based on the instruction input by the instruction input unit. A connection unit is arranged to connect with an external device, a storage unit stores message data, and time information, received from the external device through the connection unit, and a display unit displays a message based on the message data stored in the storage unit. The apparatus also comprises a discrimination unit, arranged to discriminate whether or not the manual instruction by the operator is not input for a period of time *designated by the time information received from the external device.* A control unit is arranged to control the display unit to start displaying the message based on the message data stored in the storage unit, in response to the discriminated result provided by the discrimination unit that no manual instruction by the operator has been input for the period of time designated by the time information received from the external device. Also, according to Claim 1, the storage unit is arranged to store limitation information selectively transmitted from the external device and received through the connection unit, and which limits the ability to delete the message displayed on the display unit. Moreover, the control unit permits deletion of the display of the message on the display unit in response to the manual instruction entered by the operator in a case where said storage unit does not store the limitation information, and limits deletion of the display of the message in response to the manual instruction by the operator in a case where the storage unit stores the limitation information.

Freiberger relates to an attention manager system, in which a computer acquires the schedule of content data (e.g., video or audio data) to be displayed during

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activation of a screen saver, a display time, display order and the like, from a content provider. Then, when the computer is not operated for a predetermined period of time, the screen saver is activated, and the externally acquired content is displayed according to the externally acquired schedule.

Even if *Freiberger* be deemed similar to the apparatus of Claim 1 in the point that the externally acquired content (message) is displayed if no operation is performed for a predetermined time (duration), however, *Freiberger* merely indicates that timing of starting display of the externally acquired content, i.e., timing of activating the screen saver, is "an idle period of predetermined duration". Nothing has been found or pointed out in *Freiberger* that would teach or suggest that "predetermined duration" is the information acquired from an external content provider or an application provider. That is, the schedule acquired from the content provider or the application provider includes information indicating a time during which display of content maintains, but does not define "predetermined duration (time)" up to activation of screen saver.

In this regard, Applicants note that *Freiberger* contemplates supposes Windows™ or Macintosh™ as the OS (operation system) of the computer, and, in this connection, discloses that the screen saver uses a screen saver API (Application Programming Interface) originally contained as one function in the relevant OS. For this reason, it is natural to consider that in *Freiberger* "predetermined duration" up to activation of screen saver is set by the computer itself of activating the relevant screen saver. It is thus not surprising that *Freiberger* appears to be silent about the feature recited in Claim 1 of receiving and storing the time information from the external device which is also the supply source of the message data.

Moreover, *Freiberger* is silent about the features of Claim 1 of externally receiving and storing "limitation information" and of permitting or limiting display of the message according to whether or not "limitation information" is stored. In *Freiberger*, in addition to an ordinary screen saver, the attention manager ends in response to user's mouse operation and/or keyboard operation, and thus, erasure of the message display is not limited.

In any case, according to Claim 1, since the time information and the message data are acquired from the external device, it is possible on the external device side (which is the message supply side) to control both the content of the message and the start timing of message display in a lump.

Moreover, according to Claim 1, the external device can control whether to permit or to limit erasure of the message display in response to "limitation information". For example, if it intends to cause the display of an important message, the external device transmits the message to which "limitation information" has been added, and so a user who handles a data processing device does not overlook the relevant message.

For all these reasons, Applicants submit that Claim 1 is allowable over *Freiberger*.

Independent Claims 15 and 18 are, respectively, method and computer memory medium claims corresponding to apparatus Claim 1, and are believed to be patentable for at least the same reasons as discussed above in connection with Claim 1.

A review of the other art of record has failed to reveal anything which, in Applicants' opinion, would remedy the deficiencies of the art discussed above, as a

reference against the independent claims herein. Those claims are therefore believed patentable over the art of record.

The other claims in this application are each dependent from independent Claim 1, and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and allowance of the present application.

Applicants' undersigned attorney may be reached in our New York Office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,

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